

Gov. Gregoire Sues Federal Government to Protect the Rights of Newborns

Federal policy violates equal protection clause in U.S. Constitution

OLYMPIA – Governor Chris Gregoire today announced that Washington will file a lawsuit against the federal government to protect the constitutional rights of newborn citizens to health care coverage under Medicaid.

“This is a basic issue of equality,” said Governor Gregoire. “Every baby born on U.S. soil is a U.S. citizen. It is simply not right to deny them health care coverage.”

Medicaid is a joint federal and state program providing basic health care to low-income citizens, and only U.S. citizens are eligible. To ensure that only citizens are receiving Medicaid, Congress, in the 2005 Deficit Reduction Act (DRA), required that states confirm the identity and citizenship of Medicaid applicants.

Washington has been a national leader in implementing those requirements for adult and child applications. However, the administration recently extended the identity and citizenship verification requirements to apply to newborns born in the United States. The U.S. Constitution is clear that any person born in the United States is automatically a citizen, but the new federal rules require states to withhold Medicaid coverage for babies born in the United States to undocumented immigrants until an application with proof of citizenship is processed and approved.

Nearly 8,000 infant citizens in Washington will be immediately affected by these new rules. While the lengthy application and approval process will certainly delay care for these newborn infants, it is likely that many immigrant parents will avoid the application process altogether, leaving their newborns without necessary health care, thus relying on more costly emergency room services.

“This is not about immigration,” said Governor Gregoire. “We are talking about babies, babies born in Washington, babies who are U.S. citizens and babies who need the routine check-ups and regular care that every baby deserves. Delay in health care coverage – or no coverage at all – will ultimately cost more.”

The state will file for a declaratory judgment and injunction in U.S. District Court in Tacoma next week and will not implement the federal policy until the lawsuit is resolved.

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